

POSITION STATEMENT ON HB 369

HB 369 IS "AN ACT GENERALLY REVISING ENFORCEMENT OF FISH AND GAME LAWS; LIMITING RULEMAKING AUTHORITY RELATED TO GAME ANIMAL IDENTIFICATION, AWARDING ATTORNEY FEES AND COURT COSTS TO PERSONS CHARGED BUT NOT CONVICTED OF FISH AND GAME CRIMES; LIMITING SEARCH AND SEIZURE POWERS OF GAME WARDENS; PROHIBITING GAME WARDENS FROM VIOLATING FISH AND GAME LAWS AND RULES; PROHIBITING THE USE OF MISREPRESENTATION IN EVIDENCE GATHERING; CLARIFYING CONDUCT PERMITTED AT GAME CHECKING STATIONS; REMOVING NEGLIGENCE AS A BASIS FOR VIOLATING A FISH AND GAME LAW".

HEADWATERS SPORTSMEN'S ASSOCIATION HEREBY OPPOSES HB 369 FOR THE FOLLOWING REASONS:

1. Field identification of game animals is an integral part of the hunters duties when they take to the field. If a hunter cannot fully identify that the animal is legal, he should never take the shot. The identification standards in Montana are very consistent with other states and do not place an undue burden on the hunter. The definition of "a reasonable and prudent person" is very subjective and vague.
2. Awarding court costs and attorney fees if not convicted will put a tremendous financial hardship on FWP, as even if they are convicted of some charges, but acquitted on others, FWP would still be obligated to pay the prorata costs for those charges on which they were acquitted. If you are going to impose this requirement on the FWP, then you must also impose it on all criminal charges filed by any law enforcement agency within the State! I doubt that County governments can afford those costs. How would you like to reimburse the attorney fees and court cost on O.J. Simpson's trial where he was acquitted! What I see happening under this bill is a reluctance by wardens to issue any citation for fear that they would be thrown out on a technicality and cost the FWP valuable financial resources.
3. FWP wardens should be held to standard search and seizure laws, but not to laws more restrictive than those faced by other law enforcement agencies.
4. It is the duty and obligation of hunters and anglers to know the laws. Negligence should not be an excuse to avoid a citation! A good attorney could claim negligence on many of the violations charged both for FWP violations as well as criminal violations, thereby causing reimbursement of attorney fees and court costs. It seems I read about "Negligent Homicide" charges being filed against people-are we going to change that law as well??

This bill places an undue burden on FWP wardens and is a catastrophe for law abiding hunters and anglers. It takes us back to the lawless days of the old west where anything goes. I doubt that the FWP will be able to recruit and/or retain any quality wardens if this passes. Would you want the job with the handcuffs this bill provides?

If I was a poacher or fish and game violator, I would gladly support this bill.

WE RESPECTFULLY REQUEST THAT THIS BILL BE TABLED AND NEVER BE BROUGHT BACK TO LIFE.

Sincerely,



Vito R. Quatrarò, president  
Headwaters Sportsmen's Association